KAREN P. HEWITT
United States Attorney
STEVEN DE SALVO
Assistant United States Attorney
California State Bar No. 199904
Federal Office Building
880 Front Street, Room 6293
San Diego, California 92101-8893
Telephone: (619) 557-7032
Facsimile: (619) 235-7837

Attorneys for Plaintiff
United States of America

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ARMANDO ARAMBURO-URIBE,

Defendants.

Criminal Case No. 08CR1281-W

UNITED STATES' RESPONSE AND OPPOSITION TO DEFENDANT'S MOTIONS:

(1) TO COMPEL DISCOVERY/PRESERVE EVIDENCE;

(2) SUPPRESS EVIDENCE UNDER THE FOURTH AMENDMENT;

(3) SUPPRESS STATEMENTS PURSUANT TO THE FIFTH AMENDMENT AND COMPEL AND EVIDENTIARY HEARING; AND

(4) FOR LEAVE TO FILE FURTHER MOTIONS.

Date: July 1, 2008
Time: 2 p.m.
Honorable: Thomas J. Whelan

//

//

COMES NOW the plaintiff, United States of America, by and through its counsel, Karen P. Hewitt, United States Attorney, and Steven De Salvo, Assistant United States Attorney, and hereby files its Response and Opposition to Armando Aramburo-Uribe's motions to compel discovery, suppress evidence and statements, and motion for leave to file further motions. This Response and Opposition is based upon the files and records of the case together with the attached statement of facts and memorandum of points and authorities.

I

STATEMENT OF FACTS

The following facts are from the Probable Cause Statement, attached hereto as Exhibit A:

On February 20, 2008, at approximately 1 p.m., Customs and Border Protections Officer Gerardo Ballesteros ("Ballesteros") was monitoring southbound pedestrian traffic at the Westside Pedestrian Gate Area ("WPGA"). Ballesteros observed Armando Aramburo-Uribe ("Defendant") step into the line at the turnstiles at the pedestrian exit at the U.S./Mexico border. While standing in line, Defendant apparently saw law enforcement officers at that location; he then exited the line and headed northbound, away from the border.

Ballesteros immediately contacted Defendant. When asked why he had stepped out of line, Defendant stated that he had forgotten his cell phone at the Nike store in San Ysidro. Defendant told Ballesteros that he had intended to enter Mexico. Ballesteros asked Defendant if he was carrying any money into Mexico, and Defendant replied that he was not. Defendant consented to a search. When asked to empty his pockets, Defendant produced the contents of his pockets, including several stacks of paper. CBPO saw that among the stacks of paper were blank money orders totaling $12,000. Asked if he knew of the currency reporting requirement for sums greater than $10,000, Defendant admitted knowing of this requirement. Defendant was referred to the secondary inspection area. At the secondary area, the officers then searched a white Nike store bag in Defendant's possession. The bag contained $22,758 USD in cash. Defendant stated the funds were proceeds of personal used car sales he had recently completed in the United States. Defendant could not provide any records, receipts, bills of sale or invoices in support, and did not know the exact location in which the sales had taken place.

//

II

UNITED STATES' RESPONSE AND OPPOSITION TO DEFENDANT'S MOTIONS

A. DEFENDANT HAS BEEN PROVIDED WITH ALL DISCOVERY

Defendant has moved to compel discovery and to preserve evidence. The United States has provided all written discovery to Defendants. As to the specific discovery and evidentiary requests of Defendant, the Government responds as follows:

1. The Government Will Disclose Information Subject To Disclosure Under Rule 16(a)(1)(A) and (B) Of The Federal Rules Of Criminal Procedure

The government has disclosed Defendant's statements subject to discovery under Fed. R. Crim. P. 16(a)(1)(A) (substance of defendant's oral statements *in response to government interrogation*) and 16(a)(1)(B) (defendant's relevant written or recorded statements, written records containing substance of defendant's oral statements *in response to government interrogation*, and defendant's grand jury testimony).

2. Surveillance Tapes

Defendant has requested that law enforcement agents provide copies of the surveillance tapes at the WPGA, where Defendant was initially searched, and the former Imperial Beach Border Patrol Station where he was further questioned. The United States Attorney's Office has inquired into whether any such tapes exist. The law enforcement agency has informed the United States Attorney's Office that the area where Defendant was arrested is unlikely to have been recorded by surveillance tapes and, in any event, such tapes typically are kept for only 30 days. Because Defendant's request for tapes was not made until May 5, 2008 – 75 days after Defendant's arrest – such tapes no longer exist.

3. The Government Will Comply With Rule 16(a)(1)(D)

The defendant has been provided with his or her own "rap" sheet and the government will produce any additional information it uncovers regarding defendant's criminal record. Any subsequent or prior similar acts of defendant that the government intends to introduce under Rule 404(b) of the Federal Rules of Evidence will be provided, along with any accompanying reports, at the reasonable time in advance of trial.

//

4. The Government Will Comply With Rule 16(a)(1)(E)

The government will permit defendant to inspect and copy or photograph all books, papers, documents, data, photographs, tangible objects, buildings or places, or portions thereof, that are material to the preparation of defendant's defense or are intended for use by the government as evidence-in-chief at trial or were obtained from or belong to defendant.

Reasonable efforts will be made to preserve relevant physical evidence which is in the custody and control of the investigating agency and the prosecution, with the following exceptions: drug evidence, with the exception of a representative sample, is routinely destroyed after 60 days, and vehicles are routinely and periodically sold at auction. Records of radio transmissions, if they existed, are frequently kept for only a short period of time and may no longer be available. Counsel should contact the Assistant assigned to the case two weeks before the scheduled trial date and the Assistant will make arrangements with the case agent for counsel to view all evidence within the government's possession..

5. The Government Will Comply With Rule 16(a)(1)(F)

The government will permit defendant to inspect and copy or photograph any results or reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof, that are within the possession of the government, and by the exercise of due diligence may become known to the attorney for the government and are material to the preparation of the defense or are intended for use by the government as evidence-in-chief at the trial. Counsel for defendant should contact the Assistant United States Attorney assigned to the case and the Assistant will make arrangements with the case agent for counsel to view all evidence within the government's possession.

6. The Government Will Comply With Its Obligations Under Brady v. Maryland

The government is well aware of and will fully perform its duty under Brady v. Maryland, 373 U.S. 83 (1963) and United States v. Agurs, 427 U.S. 97 (1976) to disclose exculpatory evidence within its possession that is material to the issue of guilt or punishment. Defendant, however, is not entitled to all evidence known or believed to exist that is, or may be, favorable to the accused, or that pertains to the credibility of the government's case. As stated in United States v. Gardner, 611 F.2d 770 (9th Cir. 1980), it must be noted that:

> [T]he prosecution does not have a constitutional duty to disclose every bit of information that might affect the jury's decision; it need only disclose information favorable to the defense that meets the appropriate standard of materiality.

611 F.2d at 774-775 (citations omitted). See also United States v. Sukumolachan, 610 F.2d 685, 687 (9th Cir. 1980) (the government is not required to create exculpatory material that does not exist); United States v. Flores, 540 F.2d 432, 438 (9th Cir. 1976) (Brady does not create any pretrial privileges not contained in the Federal Rules of Criminal Procedure).

7. Discovery Regarding Government Witnesses

Agreements. The Government will disclose the terms of any agreements by Government agents, employees or attorneys with witnesses that testify at trial. Such information will be provided at the time of the filing of the Government's trial memorandum.[1/] The Government will comply with its obligations to disclose impeachment evidence under Giglio v. United States, 405 U.S. 150 (1972).

Bias or Prejudice. The Government will provide information related to the bias, prejudice or other motivation to lie of Government trial witnesses as required in Napue v. Illinois, 360 U.S. 264 (1959).

Criminal Convictions. The Government has produced or will produce any criminal convictions of Government witnesses plus any material criminal acts which did not result in conviction. The Government is not aware that any prospective witness is under criminal investigation.

Ability to Perceive. The government will produce in discovery any evidence that the ability of a government trial witness to perceive, communicate or tell the truth is impaired or that such witnesses have ever used narcotics or other controlled substances, or are alcoholics.

Witness List. The Government will endeavor to provide the defendant with a list of all witnesses which it intends to call in its case-in-chief at the time the Government's trial memorandum is filed, although delivery of such a list is not required. See United States v. Dischner, 960 F.2d 870 (9th Cir. 1992); United States v. Culter, 806 F.2d 933, 936 (9th Cir. 1986); United States v. Mills, 810 F.2d 907,

---

1/ As with all other offers by the Government to produce discovery earlier than it is required to do, the offer is made without prejudice. If, as trial approaches, the Government is not prepared to make early discovery production, or if there is a strategic reason not to do so as to certain discovery, the Government reserves the right to withhold the requested material until the time it is required to be produced pursuant to discovery laws and rules.

910 (9th Cir. 1987). Defendant, however, is not entitled to the production of addresses or phone numbers of possible Government witnesses. See United States v. Thompson, 493 F.2d 305, 309 (9th Cir. 1977), cert. denied, 419 U.S. 834 (1974). The defendant has already received access to the names of potential witnesses in this case in the investigative reports previously provided to him.

Witnesses Not to Be Called. The Government is not required to disclose all evidence it has or to make an accounting to the defendant of the investigative work it has performed. Moore v. Illinois, 408 U.S. 786, 795 (1972); see United States v. Gardner, 611 F.2d 770, 774-775 (9th Cir. 1980). Accordingly, the Government objects to defendant's request for discovery concerning any individuals whom the Government does not intend to call as witnesses.

Favorable Statements. The Government has disclosed or will disclose the names of witnesses, if any, who have made favorable statements concerning the defendant which meet the requirements of Brady.

Review of Personnel Files. The Government has requested a review of the personnel files of all federal law enforcement individuals who will be called as witnesses in this case for Brady material. The Government has requested that counsel for the appropriate federal law enforcement agency conduct such review. United States v. Herring, 83 F.3d 1120 (9th Cir. 1996); see, also, United States v. Jennings, 960 F.2d 1488, 1492 (9th Cir. 1992); United States v. Dominguez-Villa, 954 F.2d 562 (9th Cir. 1992).

Pursuant to United States v. Henthorn, 931 F.2d 29 (9th Cir. 1991) and United States v. Cadet, 727 F.2d 1452 (9th Cir. 1984), the United States agrees to "disclose information favorable to the defense that meets the appropriate standard of materiality . . ." United States v. Cadet, 727 F.2d at 1467, 1468. Further, if counsel for the United States is uncertain about the materiality of the information within its possession in such personnel files, the information will be submitted to the Court for in camera inspection and review.

Government Witness Statements. Production of witness statements is governed by the Jencks Act (Title 18, United States Code, Section 3500) and need occur only after the witness testifies on direct examination. United States v. Taylor , 802 F.2d 1108, 1118 (9th Cir. 1986); United States v. Mills, 641 F.2d 785, 790 (9th Cir. 1981)). Indeed, even material believed to be exculpatory and therefore subject to disclosure under the Brady doctrine, if contained in a witness statement subject to the Jencks

Act, need not be revealed until such time as the witness statement is disclosed under the Act. See United States v. Bernard, 623 F.2d 551, 556-57 (9th Cir. 1979).

The government reserves the right to withhold the statements of any particular witnesses it deems necessary until after the witness testifies. Otherwise, the government will disclose the statements of witnesses at the time of the filing of the government's trial memorandum before trial, provided that defense counsel has complied with defendant's obligations under Federal Rules of Criminal Procedure 12.1, 12.2, and 16 and 26.2 and provided that defense counsel turn over all "reverse Jencks" statements at that time.

8. The Government Objects To The Full Production Of Agents' Handwritten Notes At This Time

Although the government has no objection to the preservation of agents' handwritten notes, it objects to requests for full production for immediate examination and inspection. If certain rough notes become relevant during any evidentiary proceeding, those notes will be made available.

Prior production of these notes is not necessary because they are not "statements" within the meaning of the Jencks Act unless they comprise both a substantially verbatim narrative of a witness' assertions and they have been approved or adopted by the witness. United States v. Spencer, 618 F.2d 605, 606-607 (9th Cir. 1980); see also United States v. Griffin, 659 F.2d 932, 936-938 (9th Cir. 1981).

9. All Investigatory Notes and Arrest Reports

The government objects to the defendant's request for production of all arrest reports, investigator's notes, memos from arresting officers, and prosecution reports pertaining to the defendant. Such reports, except to the extent that they include Brady material or the statements of defendant, are protected from discovery by Rule 16(a)(2) as "reports . . . made by . . . Government agents in connection with the investigation or prosecution of the case."

Although agents' reports have already been produced to the defense, the government is not required to produce such reports, except to the extent they contain Brady or other such material. Furthermore, the government is not required to disclose all evidence it has or to render an accounting to defendant of the investigative work it has performed. Moore v. Illinois, 408 U.S. 786, 795 (1972); see United States v. Gardner, 611 F.2d 770, 774-775 (9th Cir. 1980).

//

10. Expert Witnesses.

Pursuant to Fed. R. Crim. P. 16(a)(1)(G), at or about the time of filing its trial memorandum, the Government will provide the defense with notice of any expert witnesses the testimony of whom the Government intends to use under Rules 702, 703, or 705 of the Fed. R. of Evidence in its case-in-chief. Such notice will describe the witnesses' opinions, the bases and the reasons therefor, and the witnesses' qualifications. Reciprocally, the Government requests that the defense provide notice of its expert witnesses pursuant to Fed. R. Crim. P. 16(b)(1)(C).

11. Information Which May Result in Lower Sentence.

Defendant claims that the Government must disclose information about any cooperation or any attempted cooperation with the Government as well as any other information affecting defendant's sentencing guidelines because such information is discoverable under Brady v. Maryland. The Government respectfully contends that it has no such disclosure obligations under Brady.

The Government is not obliged under Brady to furnish a defendant with information which he already knows. United States v. Taylor, 802 F.2d 1108, 1118 n.5 (9th Cir. 1986), cert. denied, 479 U.S. 1094 (1987); United States v. Prior, 546 F.2d 1254, 1259 (5th Cir. 1977). Brady is a rule of disclosure. There can be no violation of Brady if the evidence is already known to the defendant. Assuming that defendant did not already possess the information about factors which might affect their respective guideline ranges, the Government would not be required to provide information bearing on defendant's mitigation of punishment until after defendant's conviction or plea of guilty and prior to his sentencing date. "No [Brady] violation occurs if the evidence is disclosed to the defendant at a time when the disclosure remains of value." United States v. Juvenile Male, 864 F.2d 641 (9th Cir. 1988).

B. DEFENDANT'S MOTION TO SUPPRESS UNDER THE FOURTH AMENDMENT SHOULD BE DENIED

1. No Degree of Suspicion or Probable Cause Is Required for Routine Border Searches

It is well-settled that routine searches at a United States international border require no objective justification, probable cause, or warrant. See, e.g., United States v. Montoya de Hernandez, 473 U.S. 531, 538 (1985). "That searches made at the border, pursuant to the long-standing right of the sovereign to protect itself by stopping and examining persons and property crossing into this country, are reasonable simply by virtue of the fact that they occur at the border, should, by now, require no extended demonstration." United States v. Ramsey, 431 U.S. 606, 616 (1977). "Routine searches of the persons and effects of entrants are not subject to any requirement of reasonable suspicion, probable cause, or warrant." Montoya de Hernandez, 473 U.S. at 538. No level of suspicion is required for a border search, and even random searches are constitutional. United States v. Sandoval Vargas, 854 F.2d 1132, 1133-34 (9th Cir. 1988).

Such routine searches apply to a person's baggage, vehicle, purse, wallet, or pockets. Henderson v. United States, 390 F.2d 805, 808 (9th Cir. 1967). Only when there is an extended detention and intrusive "non-routine" search of the defendant's person (i.e., x-ray, strip, or body cavity searches) is the "border search" exception to the Fourth Amendment inapplicable. Id. Here, because the search of Defendant's pockets was routine in nature and reasonable, the border exception to the Fourth Amendment clearly applies and no level of any suspicion was required for the stop and search.

Moreover, while the stop and search did not occur precisely at the U.S.-Mexico border but just short of it, Ninth Circuit case law nevertheless clearly establishes that the border search exception extends to the WPGA area where Defendant was stopped and searched, because this area is the "functional equivalent" of the border. See United States v. Duncan, 693 F.2d 971, 977 (9th Cir. 1982) (boarding ramp at airport was "functional equivalent" of border and therefore border search exception to Fourth Amendment applied). Here, involving facts sufficiently analogous to Duncan for the "functional equivalent" doctrine to apply, Defendant walked toward the pedestrian turnstiles at the border entry. See id. ("[I]t is unreasonable to expect that persons can be searched at the exact moment they cross an international border.")

2. Defendant's Act of Turning Around and Heading Northward Was Not Exculpatory

Defendant argues that his act of turning around before he reached the turnstiles and then walking northbound does not establish "reasonable suspicion" for the stop or probable cause for his arrest. Defendant's Brief, at 12-13. Against all common sense, Defendant appears to argue that his attempt to flee from the pedestrian exit lane somehow precluded officers from performing a valid border search. As explained above, due to the proximity to the border, no suspicion or probable cause was required to stop or arrest Defendant. All that is required, to pass Constitutional muster, is a showing that the stop and arrest occurred at the border or its "functional equivalent." See Ramsey, 431 U.S. at 616. Here, the stop and arrest of Defendant was at the border. Defendant approached the turnstiles – and manifested his *intent* to cross the border – even if he did not actually cross the border. See United States v. One Hundred Twenty-Two Thousand Forty-Three Dollars In United States, 792 F.2d 1470, 1476 (9th Cir. 1986) (forfeiture under Section 5316 was justified where Defendant stood on jetway at airport but did not actually cross international border, because there is "reasonable proximity both in space and time to the physical point of departure coupled with a manifest intention to leave the country.") The fact that Defendant apparently changed his mind and turned around is not exculpatory, because he had already manifested his intent to leave the country. Cf. United States v. Ortiz-Loya, 777 F.2d 973, 980 (5th Cir. 1985) (upholding conviction for attempted exportation of firearms where Defendant placed firearms in his vehicle and drove car to the port of entry, but then placed car in reverse when he saw officers approaching). Indeed, his act of turning around was reasonably viewed by the officers as a suspicious attempt to evade a border search. Moreover, during the subsequent investigatory detention of Defendant, he denied having monetary instruments – which the officer discovered was a lie, because $12,000 in money orders were found in Defendant's pockets. Defendant then admitted that he had intended not to report the funds at the border. These facts alone (apart from the additional $22,758 in currency found in Defendant's bag) were sufficient to establish the legality of the arrest.

Defendant's reliance on United States v. Oglivie, 527 F.2d 330, 331 (9th Cir. 1975), is misplaced. That case involved a roving patrol; it did not involve the border or its equivalence. The Oglivie court made the unremarkable conclusion that a turnaround near an interior checkpoint, by itself, could not establish "reasonable suspicion." See United States v. Montero-Camargo, 208 F.3d 1122, 1137 (9th Cir. 2000). Accordingly, as a case that did not involve the "border search" exception to the Fourth Amendment, Oglivie is irrelevant to the analysis here.

C. DEFENDANT'S MOTION TO SUPPRESS STATEMENTS UNDER THE FIFTH AMENDMENT SHOULD BE DENIED

Miranda warnings must be administered only when two factors are present: (1) the suspect is in custody; and (2) the suspect is subjected to police interrogation. Miranda v. Arizona, 384 U.S. 436, 477-78 (1966). The Supreme Court cautioned therein that its rule was "not intended to hamper the traditional function of police officers in investigating crime." Id. at 477 (citation omitted). "A defendant is in custody when, based upon a review of all the pertinent facts, 'a reasonable innocent person in such circumstances would conclude that after brief questioning he or she would not be free to leave.'" United States v. Wauneka, 770 F.2d 1434, 1438 (9th Cir. 1985) (emphasis added).

To determine whether a suspect is in custody, courts must examine the objective circumstances of the situation, not the subjective views of the interrogator or the person being questioned. Stansbury v. California, 511 U.S. 318, 323 (1994) (per curiam). Specifically, courts must determine "whether there was a formal arrest or restraint on freedom of movement of the degree associated with a formal arrest." Id. at 322 (citation omitted). Thus, persons subjected to brief investigatory detentions are not entitled to Miranda warnings. See, e.g., United States v. Woods, 720 F.2d 1022, 1029 (9th Cir. 1983).

During a temporary detention, the officer may ask the individual questions which are limited to the purpose of the stop in order to verify or dispel his suspicion. Id.; see also Penn. v. Muniz, 496 U.S. 582, 601-04 (1990) (even if incriminating, answers elicited prior to Miranda warnings during procedures "necessarily attendant to the police procedure [are] held by the court to be legitimate" and admissible). The fact that an individual may be the "focus" of a criminal investigation when questioned by the police does not compel the provision of Miranda warnings in an otherwise non-custodial setting. Beckwith v. United States, 425 U.S. 341, 347 (1976). Moreover, it is well-established that handcuffing a defendant (and other intrusive measures) does not necessarily render a Terry investigatory stop an arrest requiring the advisal of Miranda rights.

Application of the totality-of-facts test in this case yields only one result: Defendant was not in custody for Miranda purposes. As established in the Probable Cause Statement, Defendant was detained in the secondary inspection area, and questioned about the money orders and currency. According to the Probable Cause Statement, the questions appear to have been strictly investigative, not interrogatory, in nature. Defendant contends that the officer at secondary told him that he was "going to lose his visa" – but that allegation is contained in a brief, not a sworn statement. There is no evidence that he was confronted with any evidence of guilt. There is no evidence that he was handcuffed. There is no evidence that any force was used against him. Defendant only alleges that he was "physically escorted." Defendant's Brief, at 13. There is no allegation by Defendant that the secondary office transformed the detention into the functional equivalence of an arrest. As a result, no Miranda advisal was necessary.

//

2. Defendant Is Not Entitled to An Evidentiary Hearing In Absence of Declaration

Defendant alternatively requests an evidentiary hearing, but has provided no declaration in support of his Miranda claim. Under Ninth Circuit and Southern District precedent, as well as a Southern District Local Rule, a Defendant is entitled to an evidentiary hearing on a motion to suppress only when the Defendant adduces specific facts sufficient to require the granting of Defendant's motion. United States v. Batiste, 868 F.2d 1089, 1093 (9th Cir. 1989) (where "defendant, in his motion to suppress, failed to dispute any material fact in the government's proffer, ... the district court was not required to hold an evidentiary hearing"); United States v. Moran-Garcia, 783 F. Supp. 1266, 1274 (S.D. Cal. 1991) (boilerplate motion containing indefinite and unsworn allegations was insufficient to require evidentiary hearing on defendant's motion to suppress statements); Crim. L.R. 47.1.

Requiring a declaration from a defendant in no way compromises defendant's constitutional rights, as declarations in support of a motion to suppress cannot be used by the government at trial over a defendant's objection. Batiste, 868 F.2d at 1092 (proper to require declaration in support of Fourth Amendment motion to suppress); Moran-Garcia, 783 F. Supp. at 1271-74 (extending Batiste to Fifth Amendment motion to suppress).

Nor is it reasonable to object that a defendant will have less information that the government, and so should not be required to provide proof to support a motion. Batiste, 868 F.2d at 1092. At least in the context of motions to suppress statements, which require police misconduct incurred by defendant while in custody, defendant certainly should be able to provide the facts supporting the claim of misconduct.

The objection that 18 U.S.C. § 3501 requires an evidentiary hearing in every case is of no merit. Section 3501 requires only that the Court make a pretrial determination of voluntariness "out of the presence of the jury." Nothing in section 3501 betrays any Congressional intent to alter the longstanding rule vesting the form of proof on matters for the court in the discretion of the court. Batiste, 868 F.2d at 1092 ("Whether an evidentiary hearing is appropriate rests in the reasoned discretion of the district court.") (citation and quotation marks omitted).

//

//

3. The Government Has Adequate Proof to Support Rejection of a Motion to Suppress.

The Ninth Circuit has expressly stated that a government proffer based on the statement of facts attached to the complaint is alone adequate to defeat a motion to suppress where the defense fails to adduce specific and material facts. Batiste, 868 F.2d at 1092. As the Defendant in this case has failed to provide a declaration alleging specific and material facts, the Court would be within its discretion to deny Defendant's motion based solely on the statement of facts attached to the complaint in this case, without any further showing by the Government.

In this case, the Government has attached to this motion the Statement of Probable Cause that accompanied the complaint. See Exhibit A. This document, though hearsay, may be considered by the Court in making pretrial rulings, Fed. R. Evid. 1101. As explained above, the facts of this case are sufficient to show at this stage that there is no legitimate issue as to Miranda.

IV

CONCLUSION

For the foregoing reasons, the Government respectfully requests that this Court deny Defendant's motions except where unopposed.

DATED: June 24, 2008

Respectfully Submitted,

KAREN P. HEWITT
United States Attorney

/s/ Steven De Salvo

STEVEN DE SALVO
Assistant U.S. Attorney

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. ARMANDO ARAMBURO-URIBE, Defendant.	Criminal Case No. 08CR1281-W CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT:

I, STEVEN DE SALVO, am a citizen of the United States and am at least eighteen years of age. My business address is 880 Front Street, Room 6293, San Diego, California 92101-8893.

I am not a party to the above-entitled action. I have caused service of the GOVERNMENT'S RESPONSE AND OPPOSITION TO DEFENDANT'S MOTIONS on the following parties by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

Elizabeth Barros

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 24, 2008.

s/ Steven De Salvo

STEVEN DE SALVO